

Message

From: Knapp, Michael [Knapp.Michael@epa.gov]
Sent: 10/27/2017 12:05:57 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]; Forsgren, Lee [Forsgren.Lee@epa.gov]
CC: Williamson, Timothy [Williamson.Tim@epa.gov]; Williams, Ann [Williams.Ann@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Schroer, Lee [schroer.lee@epa.gov]; Prabhu, Aditi [Prabhu.Aditi@epa.gov]; Siegal, Tod [Siegal.Tod@epa.gov]
Subject: DOJ Brief in Penobscot Nation v. Mills
Attachments: Penobscot V. Mills- U.S. Mtn for En Banc.pdf

David and Lee,

In rough parallel with EPA's litigation concerning Maine water quality standards in tribal waters, the United States and the Penobscot Indian Nation (PIN) have been engaged in litigation with the State of Maine regarding the exact boundaries of the PIN's reservation and the scope of its sustenance fishing right. Both sides appealed a 2015 district court opinion which held, in general, that the PIN's reservation consisted of its islands only and none of the surrounding river, but that its fishing right covered the entirety of a 60 mile stretch of the river in which its islands are located. On June 30th, a divided panel of the 1st Circuit Court of Appeals (Selya and Lynch, JJ, in majority) issued an opinion affirming the district court with regard to the scope of the island reservation but vacating the holding regarding the scope of the fishing right on the basis that the claim was not ripe. Judge Torruella issued an extensive dissenting opinion.

On September 14th, the United States filed a petition for rehearing en banc, as did the PIN.

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Thanks,
Mike

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